

REMARKS/ARGUMENTS

Status of the claims

Claims 5, 20, 25-31 remain pending and are not presently amended. Claims 5, 20 and 27 to 31 are amended. After entry of these amendments, claims 5, 20, 25-31 will be pending and presented for examination.

Claims 5, 20, 25-31 remain rejected under 35 U.S.C. 112, first paragraph, because allegedly the specification, while being enabling for a method for *reducing* viral infection and replication of the Murid herpesvirus 68 (MHV68) in a cell in vitro and in vivo, does not reasonably provide enablement for a method for inhibiting viral infection and viral replication in a cell in vitro or in vivo or a method of inhibiting a viral infection in a human.

The Applicants thank the Examiner for the suggestion of reciting “reducing.”

Support for the amendments to the claims

Claims 5, 20 and 27 to 31 were amended to set forth *reducing* in place of inhibiting. This substitution comports with the standard dictionary definitions (see, Exhibit A) and also with the usage in the specification. For instance, in discussing the poly I:C inhibition of viral infection shown in Figure 6E, the specification describes the observed reduction – not total prevention – as an inhibition.

This rephrasing in accord with a usage in the specification should not raise the issue of lack of written description:

– MPEP 2163.07 “The mere inclusion of dictionary or art recognized definitions known at the time of filing an application would not be considered new matter. If there are multiple definitions for a term and a definition is added to the application, it must be clear from the application as filed that applicant intended a particular definition, in order to avoid an issue of new matter and/or lack of written description.”

Accordingly, the Applicants believe the amendments to the claims add no new matter and respectfully request their entry.

Response to the rejection of claims 5, 20, 25-31 under 35 U.S.C. 112, first paragraph.

Appl. No. 10/512,124
Amdt. dated October 25, 2010
Amendment under 37 CFR 1.116 Expedited Procedure
Examining Group 1647

PATENT

The Action acknowledged that claims reciting a reduction were enablement. The Applicants thank the Examiner for the suggestion and have accordingly amended the base and dependent claims.


Thus, the Applicants respectfully request the reconsideration and withdrawal of this grounds of rejection.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,


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EXHIBIT A

Webster's
Third
New International
Dictionary
OF THE ENGLISH LANGUAGE
UNABRIDGED

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